

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MUMIN ISRAFIL,	:	
	:	NO. 1:09-CV-00468
Plaintiff,	:	
	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
BARBARA WOODS, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation, (doc. 164), to which no objections were filed. In her Report and Recommendation, the Magistrate Judge recommended that Plaintiff's motion for Rule 60(b)(3) relief and motion to alter or amend opinion and order (doc. 153) be denied. The Court agrees.

In January 2011, Defendants moved for an extension of the dispositive motion deadline (doc. 144). The Court granted this motion (doc. 146). Plaintiff filed an objection and in the alternative sought Rule 60(b)(3) relief. The Magistrate Judge found that Plaintiff was not entitled to such relief because Defendants' motion for extension was properly granted and recommended denying Plaintiff's motion for Rule 60(b)(3) relief (doc. 164).

Plaintiff also filed, in February 2011, a Rule 59(e) motion seeking to alter or amend a "judgment" of the Court (doc.

153). Defendants note, and the Magistrate Judge found well-argued, that the "judgment" Plaintiff seeks to alter or amend is not a judgment but rather an Opinion and Order of this Court affirming the Report and Recommendation of then-presiding Magistrate Judge Hogan. The Magistrate Judge consequently recommended this motion also be denied because there is no final "judgment" to amend under Rule 59(e).

Having reviewed this matter pursuant to 28 U.S.C. §636(b), the Court finds no clear error on the face of the record and agrees with the position taken by the Magistrate Judge. See Advisory Committee Notes to Fed. R. Civ. P. 72; Thomas v. Arn, 474 U.S. 140, 150(1985)("It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in its entirety (doc. 164). The Court therefore DENIES Plaintiff's motion for Rule 60(b)(3) relief and motion to alter or amend Opinion and Order (doc. 153).

SO ORDERED.

Dated: June 2, 2011

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge